



Order Below Exh.11 In R.C.S. No.125/2025
(Gunandhar Neje v. Shridhar Neje)

The defendant has filed present application for setting aside 'no written statement' order passed against him.

02. The defendant contended that, due to his illness, he could not collect necessary documents for filing of his written statement within prescribed period of limitation. Hence, due to above mentioned justifiable ground and unavoidable circumstances, he could not file his written statement within stipulated time. He further contended that, his written statement is necessary for the just decision of the suit. Hence, he prayed that, the application may be allowed.

03. The plaintiff has strongly resisted present application by filing his say overleaf of this application. He contended that, reasons mentioned in the application are not justifiable. The application is devoid of merits. He further contended that, the defendant has filed present application in order to delay the suit. Hence, he prayed that, the application may be rejected. He alternatively contended that, if the Court comes to conclusion to allow present application, heavy cost may be imposed upon the defendant while allowing present application.

04. Heard learned advocates for both parties at length. They have argued in consonance of their pleadings.

05. On perusal of record and proceeding it appears that, this is a suit for partition and separate possession. It shows that, in spite of ample opportunities being given, the defendant failed to file his written statement within stipulated period of time. Hence, as per order passed

below Exh.1 dated 09.01.2026, the suit proceeded further without written statement of the defendant. However, considering reason mentioned in the application for non-filing of written statement within stipulated time and submissions of both learned advocates as well as considering nature of the suit and interest of the parties involved therein, it would be just and proper to give opportunity to the defendant to contest the suit on merit by filing on record his written statement. The defendant has filed this application after considerable lapse of time. However, the delay caused by the defendant can be compensated by imposing cost upon him. Considering the delay caused, it would be just and proper to impose cost of Rs.200/- on the defendant, which shall be payable to the plaintiff. Resultantly, I pass following order :-

:: ORDER ::

1. Application (Exh.11) is hereby allowed subject to costs of Rs.200/- (Rupees Two Hundred Only) payable to the plaintiff.
2. Payment of cost shall be condition precedent for taking on record written statement of the defendant.
3. Accordingly, application (Exh.11) is disposed of.

(Dictated and pronounced in the Open Court).

Date : 04.02.2026.

(Balasaheb S. Gaikwad)
Civil Judge, Junior Division,
Kurundwad.